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Dated: March 30, 2004 Signature: \_\_\_\_\_

(Tia B. Zimmerman)

Docket No.: 220002057125  
(PATENT)  
Client Ref. 94-161-9

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Re Patent Application of:  
H. Kirk HAMMOND et al.

Application No.: 09/847,936

Confirmation No.: 6165

Filed: May 3, 2001

Art Unit: 1632

For: TECHNIQUES AND COMPOSITIONS FOR  
TREATING CARDIOVASCULAR DISEASE  
BY IN VIVO GENE DELIVERY

Examiner: A. Wehbe

**RESPONSE TO ELECTION OF SPECIES REQUIREMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

This is in response to the Office Action (Paper No.: 24) mailed October 1, 2003 setting forth a Species Election, for which a response was due on November 1, 2003. Filed herewith is a Petition and fee for a three month extension of time, thereby extending the deadline for response to April 1, 2004. Accordingly, this response is timely filed.

**RESPONSE TO THE SPECIES ELECTION**

The Office Action sets forth an Election of Species requesting Applicant to elect one of the following single disclosed species for prosecution on the merits:

- (a). VEGF-A
- (b). VEGF-B
- (c). VEGF-C
- (d). aFGF
- (e). bFGF
- (f). FGF-4
- (g). FGF-5
- (h). FGF-6
- (i.) insulin-like growth factor
- (j). angiogenic polypeptide regulator
- (k).platelet derived growth factor
- (l). hypoxia inducible factor

The Office Action states that claims 1-19, 27, 29-30, 37-83, 91, 93-94, 101-131, 141-142 and 149-156 are generic. In addition, the Office Action sets forth a second species election with respect to claims 29-36, 93-99 and 141-148 requesting Applicant to elect a second angiogenic

protein or peptide from the group of (a) –(l). The Office Action states that claims 29-30, 93-94 and 141-142 are generic for a first angiogenic protein and a second angiogenic protein.

Applicants elect FGF-4 as the first angiogenic protein or peptide and VEGF-A as the second angiogenic protein or peptide. Claims readable on the species are 1-22, 27, 29-34, 36-86, 91, 93-98, 100-134, 139, 141-146 and 148-156. This election is made with traverse. Applicant respectfully submits that it would not be unduly burdensome to search the angiogenic proteins or peptides of group (a) - (l) together. Accordingly, Applicant respectfully requests reconsideration of the species election.

Applicant expressly reserve their right under 35 U.S.C. § 121 to file one or more divisional applications directed to the non-elected subject matter during the pendency of this application, or an application claiming priority from this application. Applicant requests examination of the elected subject matter on the merits.

If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below. In the unlikely event that the Patent Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing 22000-2057125. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: March 30, 2004

Respectfully submitted,

By 

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